

REMARKS

Applicants respectfully request reconsideration of the above referenced patent application in view of the amendments and remarks set forth herein, and respectfully request that the Examiner withdraw all rejections. Claims 28, 36, 44 have been amended. No claims have been canceled. No claims have been added. Thus, claims 28-51 are pending.

35 U.S.C. §112 Rejections

Rejections under 35 U.S.C. §112, ¶1

The Office Action rejects claims 28, 36 and 44 under 35 U.S.C. §112, ¶1 for failure to meet the both the written description requirement and the enablement requirement. More particularly, the Office Action alleges that the limitation “no additional software” is new matter not presented in the specification. For at least the following reasons, Applicants traverse the above rejection.

Without agreeing as to any alleged failure to meet either the written description requirement or the enablement requirement of 35 U.S.C. §112, ¶1, Applicants amend claims 28, 36 and 44 herein to remove references to “no additional software”. Applicants submit that the claims as currently amended contain no new matter not supported in the original disclosure, and that the claims meet the various requirements of 35 U.S.C. §112, ¶1. For at least the foregoing reasons, Applicants request that the above 35 U.S.C. §112, ¶1 rejection of claims 28, 36 and 44 be withdrawn.

35 U.S.C. §102 Rejections

35 U.S.C. §102(b) Rejection over *DeRosa*

The Office Action rejects claims 28-51 under 35 U.S.C. §102(b) as being anticipated by DeRosa, Jr. et al., USPN 5,822,565 (“*DeRosa*”). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or

inherently described, in a single prior art reference, wherein the identical invention is shown in as complete detail as is contained in the claim. *See* M.P.E.P. §2131. The Office Action alleges that *DeRosa* discloses, *inter alia*, reading a header on a medium that describes a location of a program on the medium, the program to enable a computer to read a block of data on the medium. Applicants traverse the above rejection for at least the following reasons.

The above rejected claims include independent claims 28, 36 and 44.

Independent claim 28 is amended herein to recite in a salient portion (emphasis added):

“...determining during a pre-boot phase of a computer if a block of data on a medium coupled with the computer includes **a data format which cannot be read by the computer;**...”

Each of current claims 36 and 44 includes similar claim limitations. Applicants respectfully submit that each of claims 28-51 is not anticipated by *DeRosa*, based at least on the failure of the reference to teach one or more limitations in each of independent claims 28, 36 and 44. More particularly, *DeRosa* fails to disclose determining during a pre-boot phase of a computer if a block of data on a medium coupled with the computer includes **a data format which cannot be read** by the computer, as variously recited in the claims.

DeRosa describes a way to configure a computer system wherein underlying system software communicates information identifying a particular operating system to a configuration utility. *See* Abstract. The configuration utility uses this information to construct a filename of a file that describes system requirements and constraints and/or operating system constraints. The configuration utility may then locate the file once the filename is constructed and obtain resource allocation data from the file. *See* col. 5, line 64 to col. 6, line 14.

Applicants note that *DeRosa* **fails** to determine whether, for example, the file located by the configuration utility includes **a data type which cannot be read** by the computer. Rather, the reference **merely** provides a way for a configuration utility to

locate a particular resource allocation file in order to obtain resource allocation information needed to run a given operating system. Any enabling of the reading of a file in *DeRosa* is based **only** on a locating of the file by **identifying of the name** of the file to be read. *DeRosa* assumes that constructing the filename – i.e. the locating of the file – is sufficient for accessing the file having the filename and obtaining the resource allocation information therein. However, *DeRosa* simply **ignores** the case wherein a located resource allocation file is found to have an unreadable format. Assuming *arguendo* that all other claim limitations are anticipated by *DeRosa*, which Applicants do not agree, the reference still **fails** to disclose determining whether the identified file has a block of data that includes a data **type** which cannot be read. Therefore, the reference does not disclose Applicants' invention in as complete detail as set forth in the claims.

For at least the foregoing reasons, *DeRosa* fails to disclose at least one element in each of independent claims 28, 36 and 44. In depending directly or indirectly from one of these independent claims, each of dependent claims 29-35, 37-43 and 45-51 incorporates at least one limitation not taught by the reference. Therefore, Applicants request that the above 35 U.S.C. §102(b) rejection of claims 28-51 based on *DeRosa* be withdrawn.

CONCLUSION

For at least the foregoing reasons, Applicants submit that the objections and rejections have been overcome. Therefore, claims 28-51 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application. Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,
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